



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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OCT 30 1997

In the Matter of

FCC MAIL ROOM

Preemption of State and Local Zoning and) MM Docket No. 97-182
Land Use Restrictions on the Siting,)
Placement, and Construction of Broadcast)
Transmission Facilities)

COMMENTS OF Peter Maroney, VP and General Manager, KOIN Television

I am responding on behalf of KOIN Television (CBS Portland) and its owners (Lee Enterprises, Inc) to the Commission's Notice of Proposed Rule Making regarding federal preemption of local zoning and planning regulations as they may impact the timetable for KOIN's conversion to digital television.

KOIN is among the top-thirty market television stations which must begin transmitting its digital television signal in November of 1999. To accomplish this timely and costly transition KOIN must first plan and construct a new tower of approximately one-thousand feet as well as a new transmitter building to house the comparatively larger UHF transmitters required by its new digital channel. Once construction is completed over the next 15 to 18 months KOIN will undertake the enormous task of installing or relocating antennas, transmission lines, and transmitters for not only its own analog and digital channels but for those of two other television stations as well, including the local Public Broadcasting facility (pending lease) and eight commercial and non-commercial radio stations, all of which currently share our tower through long term lease agreements for their transmitting facilities.

It is important to note that our timetable for this conversion is barely adequate to meet the November 1999 deadline. The time required for negotiating and coordinating contracts with vendors and suppliers, the potential scarcity of tower crews and construction materials, and unforeseen weather delays are all exigencies that we have tried to anticipate in our roll-out of DTV. Any further delay, even for a few weeks, would make it impossible to meet the Commission's mandated deadline.

It is with great concern therefore that KOIN expresses it's full support for the Proposed Rule submitted in the NAB/MSTV petition on this matter. We firmly believe that there should be a process of Declaratory Relief provided by the Commission for any final action or failure to act by a State or local government or agency that is inconsistent with the Proposed Rule.

While KOIN has not directly experienced significant delays in the past regarding tower siting or construction projects, we have witnessed other tower projects in our DMA which have been impacted by extensive zoning, planning, and land use considerations.

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We believe some of these projects have been needlessly delayed by conflicting jurisdictions among multiple state and local government agencies. Other delays have been caused by misinformed citizen complaints and concerns about environmental or health effects of radio frequency emissions or interference effects. In our own experience, KOIN has been subjected in the past to what we believe to be an unnecessary burden of frivolous and irrational requirements for site mitigation, including landscaping that could not be supported by existing climate conditions or water supplies.

Further, we have been advised by local counsel that we should expect delays from one to four years for some of the procedural hearings and deliberations that have been experienced in the past by other tower siting projects within KOIN's city of license, Portland, Oregon. Of special concern is the possibility that the present 22-acre site of KOIN's tower might be annexed by the City of Portland during the construction or transition period and thereafter subjected to extensive delays for a whole new set of land use and esthetic hearings and site mitigation requirements not heretofore experience in the County's jurisdiction.

KOIN's most recent experience with what we believe to be unnecessary local government interference in the commerce and public service of broadcasting came in the form of new regulations regarding the siting and design of cellular phone towers in Portland and surrounding metro regions. KOIN, as well as other television stations in the Portland DMA, were required to attend public hearings, in some cases with legal counsel, to educate and convince local planning authorities that television and radio towers should not have been included in proposed new regulations for siting and construction of towers for cellular phones and other personal service communication devices. It is exactly this type of uninformed intrusion by local planning and zoning officials that might easily put Portland's television stations off course in their extremely tight timetables for the mandated conversion to digital television.

We are certainly not suggesting that all local ordinances be set aside for the purpose of a timely build-out of digital facilities. Again, we support the NAB/MSTV petition in its recognition of local jurisdiction for public health or safety objectives. There are no doubt many safety and emergency service considerations that must be made in the construction and installation phases of this conversion. We also agree that the NAB/MSTV proposal for a total of no more than 60 days for appeal and resolution is reasonable and necessary. We would ask in addition however that the Commission consider some form of relief for local broadcasters by allowing a corresponding delay in the deadline for transmission of the digital signal and that all such provisions take into consideration the need for fair and effective competition among competing electronic media.

In the interest of a timely and cost effective roll-out of its digital television initiatives, KOIN urges the Commission to implement and enforce the Rule as proposed by the National Association of Broadcasters and the Committee for Maximum Service Television.